POLICY BRIEF • SEPTEMBER 2023

Overregulated Childcare

Wisconsin's 2023-'25 Biennial Budget and the Path Ahead

By Angela Rachidi

BADGER INSTITUTE

Republican reforms to maintain quality and restrain costs merit support

President's Note

Kids bring joy, sure.

They can also bring bankruptcy — especially given the cost of childcare nowadays.

It's a problem tens of millions of Americans know all too well. Two-fifths of all families in this country include children under the age of 18. There is at least one parent with a job in 91% of those families, according to the Bureau of Labor Statistics. In 65% of families with married parents, both work. And work.

As Dr. Angela Rachidi points out in the following paper, median childcare costs in Wisconsin range from $7,500 to $15,000 annually per child for full-time care. Add another one or two kids and it's not unlikely half of at least one parent's income goes to childcare.

The solution is not to throw more government money — and regulations — at the problem, which is why we were so disappointed in Gov. Tony Evers' approach during budget deliberations. Luckily, legislators have now followed up with a proposed series of bills focused on three things: offering no-interest loans to cover childcare provider renovation costs, creating a pre-tax reimbursement program to help cover childcare costs, and changing staff-to-child ratio requirements and other licensing rules to lower operating costs.

For reasons laid out below by Dr. Rachidi, these are all good bills that deserve support, and we intend to advocate for them in Madison in the weeks ahead.

Please, if you have a moment between shifts, read her take on things. If you're a parent or a childcare provider, we think you'll agree.

— Mike Nichols, Badger Institute president

Overregulated Childcare

Wisconsin's 2023-'25 Biennial Budget and the Path Ahead

By Angela Rachidi

Executive Summary

Wisconsin's legislative budget session ended in July 2023 with an increase in childcare funding in the 2023-'25 biennial budget. However, the final budget did not include $340 million requested by Gov. Tony Evers to continue a pandemic-era program offering direct operating assistance to Wisconsin childcare providers. Instead, Republican lawmakers added $42 million in childcare funding to the budget — including a $15 million revolving loan program to help childcare providers operate and $27 million to increase the income eligibility and phase-out rate for recipients of childcare subsidies in Wisconsin.[1] Subsequently, Republican lawmakers have introduced several bills outside of the budget process aimed at providing additional childcare assistance to families and providers, while also reducing regulations to lower childcare costs.[2]

On the surface, the childcare funding fight was about cost. During the budget session, the governor wanted a larger appropriation for childcare funding than the Republican-controlled Joint Finance Committee was willing to support. However, as the recently proposed Republican-sponsored bills show, the underlying issues at stake involve the proper role for government and policies that can both lower costs for families and properly regulate childcare in the state. Had Democratic policymakers gotten their way, the state would have taken a much larger financial stake in the day-to-day operations of childcare services in Wisconsin while maintaining a regulatory framework that drives up costs for families without much evidence of effectiveness. Alternatively, Republicans added funds to the budget to help families afford care, while later offering a series of bills aimed at lowering costs for families.

The Legislature appears ready to confront one of the primary factors driving up childcare costs in Wisconsin: overregulation. Failing to confront this reality would miss an opportunity to improve the affordability and accessibility of childcare without adding to the budget. Eliminating unnecessary or unverifiable regulations can reduce compliance costs for childcare providers without sacrificing quality — savings that they can pass on to families. Fewer regulations will increase competition among childcare providers, return authority to parents and ultimately make childcare more affordable for Wisconsin families.

Some level of government regulation in the childcare market is necessary to ensure that children are in healthy and safe environments. However, research shows that childcare quality regulations — such as staff education requirements or staff-to-child ratios — fail to improve child outcomes and likely drive up costs. There is no magic formula for determining the proper staff-to-child ratio in a childcare setting, and research suggests that tougher regulations fail to improve quality and likely drive up costs.[3] National organizations, such as the National Association for the Education of Young Children, offer best practices for staff-to-child ratios. However, accreditation organizations often ignore the implications of standards on cost and quality, leading to ratios that are more stringent than necessary.[4] Other quality requirements used by Wisconsin officials — such as the quality of staff and child interactions — are unverifiable, and there is no direct evidence that they improve child outcomes.

Wisconsin's childcare regulatory framework is considerable. It involves regulations around licensing and staff-to-child ratios, as well as quality through a program called YoungStar that dictates day-to-day operations. YoungStar's evaluation criteria for childcare providers run 45 pages long, and an evaluator visits each provider who wants a sufficient rating. YoungStar evaluators must observe a variety of things during their visits that contribute to their overall ratings, including the number of books, fine motor materials and art materials. While easily observable, government micromanagement at this level undoubtedly constrains the number and type of childcare providers in Wisconsin, which restricts supply and drives up costs. Other YoungStar requirements are less clearly verifiable and similarly increase costs, such as "staff and children demonstrate enjoyment with being together." This report takes an initial look at the YoungStar criteria for onsite assessments, revealing the compliance burden placed on providers, and shows how government regulations likely drive up costs. It also describes the literature that offers weak evidence for tough licensing requirements and restrictive staff-to-child ratios.

The recently introduced bills in the Wisconsin Legislature offer a useful step toward reducing the regulatory burden on childcare providers in a way that could fundamentally lower childcare costs for Wisconsin families. They also offer options for childcare flexible spending accounts to help families cover existing costs. These legislative efforts are in stark contrast to Gov. Tony Evers' proposal during the budget session, under which taxpayers would have directly subsidized childcare operations in the state while maintaining the same costly regulatory framework.

The Legislature can go even further, however. It should require the Department of Children and Families (DCF) to conduct a rigorous assessment of its YoungStar quality improvement system and the broader regulatory environment for childcare. Wisconsin must answer fundamental questions about the extent to which YoungStar evaluation criteria are reliable measures of quality in practice and whether they lead to better child outcomes. We must assess the strength of the relationship between YoungStar requirements and childcare costs. The Legislature also could authorize a pilot project to include a few counties that reduce the YoungStar evaluation criteria substantially for their childcare providers to only a few key observable and verifiable items, allowing a comparison of costs and child outcomes to similar counties that maintain the existing YoungStar system.

Childcare Spending: The 2023-'25 Biennial Budget and the Legislature's Bills

Child Care Counts was a pandemic-era program that supported childcare operations in Wisconsin. The Joint Finance Committee authorized the first round of Child Care Counts payments, funded through federal COVID-19 relief money, as a stabilization fund for childcare providers during the pandemic "to help them stay open, retain and recruit staff, and provide high quality care to children."[5] It provided $181 million to childcare providers throughout the state from November 2021 to July 2022 through two programs — Program A sought to increase access to childcare, while Program B focused on workforce recruitment and retention.[6] A second round of funding extended beyond July 2022 and expires at the end of federal fiscal year 2023. Childcare providers submitted applications for funding, and funds supported a variety of purposes, with the most common being operating expenses, materials, payrolls, training and financial assistance to families.[7]

Arguably, government funding was necessary to help childcare providers remain operational during the pandemic when childcare demand decreased due to employment changes (such as unemployment and remote work), fears over COVID and other pandemic-related disruptions. In short, Child Care Counts used federal COVID relief money to help childcare providers cover expenses so that they could continue operating when demand declined for their services. In theory, policymakers had an interest in propping up the childcare sector because that sector was essential once the pandemic subsided and employment patterns and childcare demand returned to normal.

Less clear is the rationale for continuing Child Care Counts beyond the end of the pandemic. As a permanent program, it would use general purpose revenue to support operating expenses for private childcare businesses. Traditionally, Wisconsin (like other states) has subsidized the cost of childcare for some families through the federal/state childcare subsidy program, but it rarely directly subsidizes the day-to-day operations of private childcare providers.[8]

Subsidizing the cost of childcare for low-income families allows private childcare providers to charge a market rate, ideally passing on all of their costs to paying families, with the government filling the gap between the market rate and the cost that low-income families can pay. Child Care Counts would have directly subsidized childcare operations while also continuing to subsidize families through the existing subsidy program, Wisconsin Shares. Not only would this have duplicated assistance, but directly subsidizing childcare operations over the long term would introduce additional market inefficiencies, resulting in reduced competition and higher costs for families (or the government) over time.

In the 2023-'25 biennial executive budget, Evers proposed making permanent Child Care Counts by including $341 million in direct payments to providers ($303 million in general purpose revenue and $38 million in federal revenues).[9] The Joint Finance Committee, controlled by Republicans, did not support funding for Child Care Counts, instead adding direct childcare funds to increase the income eligibility for childcare subsidies and to phase out subsidies more slowly as a way to reduce effective marginal tax rates. In the end, the budget included $27 million in direct childcare assistance and $15 million in a revolving loan fund for providers, aimed at helping more families to afford childcare.

In September 2023, state legislators followed the budget session with a proposed series of bills focused on three things: offering no-interest loans to cover childcare provider renovation costs, creating a pre-tax childcare reimbursement program to help cover childcare costs, and changing staff-to-child ratio requirements and other licensing rules to lower operating costs. The childcare reimbursement program follows a similar model as the existing federal child and dependent care flexible spending accounts, where parents are able to put pre-tax dollars in a spending account to cover their childcare expenses. The Legislature proposed to allow parents up to $10,000 in qualifying childcare expenses each year.

Four other bills from the Legislature involve easing the requirements for small childcare providers to operate, while also increasing the staff-to-child ratios for children in group settings. The Legislature's bills proposed marginal changes, decreasing to 16 the eligible age to qualify as an assistant teacher (from age 18), for example, and adding up to two children to the staff-to-child ratios. They also would make it easier for childcare providers serving only a small number of children to meet state regulations. Table 1 provides a summary of the Legislature's childcare bills and the Department of Administration's fiscal estimate. Notably, the Department of Administration does not estimate the potential for cost savings associated with reducing regulations, such as increasing staff-to-child ratios.

A review of the literature on the impact of childcare regulations on child outcomes and costs supports these reforms. A 2022 review by Arizona State University researcher Chris Herbst offered an assessment of the effectiveness of staff-to-child ratios on child outcomes, concluding the evidence was weak that tougher group size requirements lead to higher quality childcare. A 2015 from Mercatus Center researchers concluded the same, noting that tougher regulations had limited impacts on quality but large impacts on cost.[10] This research suggests that easing group size requirements can lower costs, which providers can pass onto childcare workers or families, without sacrificing quality.

Problems with Wisconsin's Childcare Market

The focus on childcare this budget session reflects a growing concern that the cost of childcare is pricing parents out of the market. For some families, childcare can absorb a substantial share of a household's budget. Median childcare costs in Wisconsin range from $7,500 to $15,000 annually per child for full-time care, depending on the age of the child, geography and other factors, such as type of care.[11] Median household income for Wisconsin families with children under age 18 was approximately $85,000 in 2021 and $41,635 for female-headed families.[12] Based on these figures alone, rough estimates suggest that some families would have to pay 20%

Table 1

Summary of the Legislature's childcare bills

Bill	Description	Fiscal estimate
AB388 / SB421	Creates a revolving, interest-free loan program administered by the Wisconsin Economic Development Corporation for licensed childcare providers who want to renovate their facilities. 60% of loans must go to in-home providers.	Indeterminate
AB389 / SB422	Creates a new category, "large family childcare centers," that can care for larger numbers of children as long as there is sufficient oversight.	Indeterminate but minimal
AB391 / SB423	Increases the number of children who can be in a group childcare center and the ratio of the number of kids to the number of childcare workers. Allows the center to adjust its ratio to match the ratio in the local school district.	None
AB390 /SB424	Lowers the minimum age for assistant childcare teachers from 17 to 16 and minimum age at which an assistant childcare teacher may provide solo supervision from 18 and 16.	None
AB387 /SB426	Allows parents to create tax-advantaged accounts they can use to pay certain childcare expenses that enable them to work.	Estimated tax revenue reduction of $8 million
AB392 /SB425	Increases to six the number of unrelated children under 7 whom a child-care provider may care for.	Indeterminate but minimal

Source: Legislative Reference Bureau, Department of Administration

or more of their family budget for childcare and that for others, paid childcare would be simply out of reach.

The conventional view is that the childcare market throughout much of the country is broken because increases in families' pay have not kept pace with rising childcare costs. When childcare providers cannot pass on all of their costs to families due to an inability to pay, providers have to lower their costs or families must seek government assistance to fill the gap. Some economists blame market failures for preventing the childcare business model from functioning effectively, including liquidity constraints (that is, families cannot borrow against future earnings) and imperfect information (parents do not have information about quality, or they underestimate longer-term benefits).[13] However, these assessments often miss the government's role in driving up costs in the first place, making it a challenge for childcare businesses to operate.

For example, a 2015 study by Diana W. Thomas and Devon Gorry for the Mercatus Center found that state regulations designed to increase the quality of childcare had no measurable effect on quality while substantially increasing the costs of care.[14] Government regulations driving up childcare costs can cause significant financial strain on families in Wisconsin, particularly those with low incomes. Moreover, these regulations falsely give parents the impression that higher costs are worthwhile, that "highly rated" childcare providers provide a long-term benefit for their children. Additionally, government regulations likely drive lower-cost providers from the market altogether, reducing competition and further limiting the availability of affordable childcare. This is especially concerning given the evidence that government regulations do not measurably improve childcare quality.[15]

In reality, in Wisconsin as in other states, the childcare market is not a conventional market at all. While childcare services function primarily through families paying childcare providers privately for care, supply is heavily regulated, with government officials micromanaging almost every aspect of childcare operations through licensing and quality ratings. The DCF administrative code outlines the ratio of childcare workers to children, varying the maximum number of children per staff member by the type of provider and age of children in their care. For example, under current administrative rules, there must be one worker per four children age birth to two years, while there can be one worker per 13 children age 4 to 5.[16] Generally, childcare professionals consider lower staff-to-child ratios higher quality, but there is no magic formula to determine the ideal staff-to-child ratio. Within reason, childcare providers and parents are in a better position to determine appropriate ratios than government officials are, especially because staff-to-child ratios loosely connect to quality and dramatically affect costs.

Another example of government regulations affecting care costs comes from Wisconsin's quality rating system, YoungStar. While participation among childcare providers in YoungStar is voluntary, providers must participate in order to serve families that receive government-subsidized childcare. YoungStar offers providers a rating from 1 to 5, but childcare providers must receive a rating of at least 2 to continue operating in good standing. The DCF traditionally has also adjusted reimbursement payments as part of the childcare subsidy program based on quality ratings — higher-rated providers receive larger reimbursement payments.[17]

The evaluation criteria run 45 pages long for both family and group childcare providers. An evaluator visits each provider who agrees to such a visit, which the DCF requires for providers to achieve a rating of 3 or more. A look at the YoungStar evaluation criteria for onsite assessments reveals the burden placed on providers to comply with these regulations and shows how they might drive up costs.

For example, the first element included in the YoungStar evaluation criteria involves staff education — the higher the level of education among childcare staff, the higher the rating. Although the evaluation document justifies requiring higher levels of education among staff because "research indicates that providers with higher levels of education are linked to improved outcomes for children," in reality, the evidence linking education credentials to better child outcomes is weak.[18] Instead, education level among staff often simply correlates to other characteristics that lead to better child outcomes, such as having engaged and attentive caretakers. In fact, research shows that staff-level education requirements do not lead to better quality childcare, but it does raise costs.[19]

Another element included in the YoungStar evaluation criteria requires providers to demonstrate "developmentally appropriate environments." Evaluators must observe a variety of things during their visits that contribute to their overall ratings, with some elements easy to observe, such as:

- "One book for each child present at any given time"
- "Six different examples of fine motor materials"
- "Six different examples of art materials"

However, other evaluation criteria are entirely subjective, including a requirement that "All staff/staff and staff/child interactions must be positive or at least neutral" and "Staff and children demonstrate enjoyment in being with each other," making it unclear how evaluators observe and rate these elements in real time. Other criteria are similarly subjective. The problem with such a long list of rating criteria is that it likely creates a burden on childcare providers to achieve compliance, with little relation to care quality or better child outcomes.

This level of government micromanagement constrains the number and type of childcare providers, restricting supply and driving up costs.[20] When providers cannot pass these higher costs on to families, policymakers across the political spectrum blame "the childcare market" rather than the government regulations that are driving up costs by restricting competition and increasing compliance costs. Policymakers often respond by increasing childcare subsidies to meet these higher costs rather than questioning the logic of the regulations in the first place.

Granted, some level of government regulation in the childcare market is necessary to ensure that children are in a healthy and safe environment. However, in recent decades, government officials have overregulated childcare quality, with little connection to improved child outcomes.[21] Questions remain over how much this tightly regulated system contributes to higher childcare costs compared to an alternative with less onerous requirements, primarily because it is difficult to study specific regulations in isolation and in a controlled environment. However, the 2015 Thomas and Gorry study found that a few easily measured regulations — maximum child-to-staff ratios, group size limits and training requirements — significantly increased the cost of childcare across states without improving quality.

Solutions to Childcare Market Problems

Problems with Wisconsin's overregulated childcare market should inform future debates over childcare funding. In the state's 2023-'25 biennial budget, Evers wanted to make permanent Child Care Counts as a way to cover providers' increasing costs, ignoring the role that his own administration plays in driving up those costs through questionable quality regulations. The Joint Finance Committee blocked the governor's efforts, and legislators offered a series of bills in September 2023 to address the overregulation problem. The Legislature seeks to make it easier for childcare providers to operate and adjusts marginally the staff-to-child ratios for group childcare providers, which will lower costs for providers, savings that they can pass on to childcare workers in the form of higher wages or to families in the form of lower childcare costs.

As a further step, the Legislature should require the DCF to conduct a rigorous assessment of its YoungStar system and the broader regulatory environment for childcare. In the assessment, the DCF should answer fundamental questions about the extent to which YoungStar evaluation criteria are reliable measures of quality in practice and whether they lead to better child outcomes.

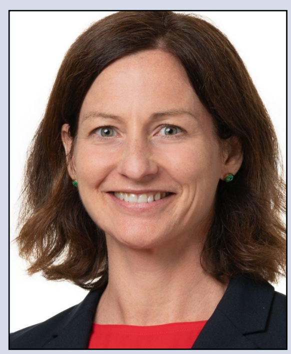
Wisconsin should assess the strength of the relationship between YoungStar requirements and childcare costs. The Legislature also could authorize a pilot project to include a few counties that reduce the YoungStar evaluation criteria substantially for their childcare providers to only a few key observable items, allowing a comparison of costs and child outcomes to similar counties that maintain the existing YoungStar system.

Conclusion

Childcare is essential for many working families in Wisconsin. Not only do working parents need a safe place for their children, but children can benefit developmentally from appropriate and engaging activities early in life. However, government policies that overregulate childcare can drive up costs and reduce access unnecessarily. To increase access and affordability, policymakers must improve the childcare regulatory environment.

Wisconsin's 2023-'25 biennial budget season failed to address the problem of childcare overregulation in the state. However, the state Legislature has proposed a series of bills aimed at reforming childcare regulations and lowering costs. In the coming months, state lawmakers will debate these reforms and, Evers will have an opportunity to weigh in on the problem of childcare overregulation in Wisconsin. Ideally, these policy debates will lead to reforms that increase childcare affordability and access for Wisconsin families.

About the author



Angela Rachidi, a Badger Institute visiting fellow, is a senior fellow at the American Enterprise Institute, based in Washington, D.C. She is the founder and principal of Rachidi Research and Consulting, LLC. In her work, Rachidi studies the impact of safety net programs on low-income families and individuals. She researches the effects of government policies and programs on employment, child wellbeing, family income and economic mobility. Rachidi holds a doctorate in public policy from the New School University in New York City, a master's degree in public administration from Northern Illinois University and a bachelor's degree from the University of Wisconsin-Whitewater. She lives in and works from Middleton, Wisconsin.

Endnotes

1: See the "Comparative Summary of Budget Recommendations — Governor and Joint Committee on Finance (June 2023 by Agency)," Department of Children and Families, produced by the Wisconsin State Legislature, https://docs.legis.wisconsin.gov/misc/lfb/budget/2023_25_biennial_budget/ 400_comparative_summary_of_budget_recommendations_governor_and_joint_committee_on_finance_june_2023_by_agency/children_and_families.pdf. The childcare revolving loan fund was included in the Wisconsin Economic Development Corporation's budget, https://docs.legis.wisconsin.gov/misc/lfb/budget/2023_25_biennial_budget/101_summary_of_provisions_2023_act_19_july_2023_by_agency/wisconsin_economic_development_corporation.pdf.

2: See 2023 Assembly Bills 387, 388, 389, 390, 391 and 392, https://docs.legis.wisconsin.gov/2023/legislators/assembly/2542.

3: See David M. Blau, Unintended consequences of child care regulations, Labour Economics, Volume 14, Issue 3, 2007, Pages 513-538; Chris M. Herbst "Child care in the United States: Markets, policy, and evidence." Journal of Policy Analysis and Management 42, no. 1 (2023): 255-304; and Diana W. Thomas and Devon Gorry, "Regulation and the Cost of Child Care," Mercatus Center, August 2015, Thomas-Regulation-Child-Care.pdf.

4: American Academy of Pediatrics, et al "National Health and Safety Performance Standards Guidelines for Early Care and Education Programs", Fourth Edition, https://nrckids.org/files/CFOC4%20pdf-%20FINAL.pdf.

5: Hilary Shager, Liesl Hostetter and Zachary Bauer, "Study of the Child Care Counts Stabilization Payment Program Final Report, Institute for Research on Poverty, March 2023, https://dcf.wisconsin.gov/files/childcare/covid/pdf/ccc-final-report.pdf

6: Ibid.

7: Ibid.

8: In theory, some states could directly provide childcare through the Child Care Development Block Grant; however, the vast majority provide vouchers for use at private childcare providers or offer direct contracted slots at private providers.

9: See the "Comparative Summary of Budget Recommendations — Governor and Joint Committee on Finance (June 2023 by Agency)," Department of Children and Families, produced by the Wisconsin State Legislature, https://docs.legis.wisconsin.gov/misc/lfb/budget/2023_25_biennial_budget/400_comparative_summary_of_budget_recommendations_governor_and_joint_committee_on_finance_june_2023_by_agency/children_and_families.pdf.

10: Diana W. Thomas and Devon Gorry, "Regulation and the Cost of Child Care," Mercatus Center, August 2015, Thomas-Regulation-Child-Care.pdf.

11: The Department of Children and Families publishes data from a childcare market rate survey, which the federal government requires of states in order to participate in the federal Child Care Development Fund program. The 2022 market survey can be found at https://dcf.wisconsin.gov/files/wishares/ccdbg/2022-ccmarket-survey-results-report.pdf.

12: The median household income for families uses data from the 5-year American Community Survey that the U.S. Census Bureau administers, Table S1903, https://data.census.gov.

13: Erdal Tekin, An Overview of the Child Care Market in the United States, NBER Working Paper.

14: Diana W. Thomas and Devon Gorry, "Regulation and the Cost of Child Care," Mercatus Center, August 2015, Thomas-Regulation-Child-Care.pdf.

15: Chris M. Herbst "Child care in the United States: Markets, policy, and evidence." Journal of Policy Analysis and Management 42, no. 1 (2023): 255-304

16: See DCF administrative rule 251.055.

17: Quality rating adjustments changed during the Child Care Counts program, which will expire at the end of 2023, https://dcf.wisconsin.gov/youngstar/providers/quality-adjustment.

18: The YoungStar evaluation criteria document linked to a 2000 literature review on the relationship between childcare quality efforts and child outcomes. While higher education was linked to better observed quality childcare, this literature involved correlations, not controlled studies. Further, even when observed quality improved, there was a weak relationship between observed childcare quality and child outcomes, https://aspe.hhs.gov/reports/child-care-quality-does-it-matter-does-it-need-be-improved-full-report.

19: Thomas and Gorry, "Regulation and the Cost of Child Care."

20: Ibid.

21: Ibid.